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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SIXTH APPELLATE DISTRICT

In re C.S., a Person Coming Under the
Juvenile Court Law.

H046302
(Santa Clara County
Super. Ct. No. 17JV42560)

THE PEOPLE,

Plaintiff and Respondent,

v.

C.S.,

Defendant and Appellant.

C.S. was committed to a county-run juvenile rehabilitation facility after admitting a wardship petition charging vehicle theft, firearm possession, and resisting, delaying or obstructing an officer. He argues that the disposition order should be reversed because the stated reason for the commitment is not supported by the record. Finding no abuse of discretion, we will affirm the order.

I. BACKGROUND

Then 15-year-old C.S. was detained in October 2016 for burglary, resisting arrest, and curfew violations after he and other minors had a party in a vacant home. The matter was referred to the Probation Department's prevention and early intervention diversion program. He was allowed to continue in the program even after video surveillance captured him burglarizing two vehicles in January 2017.

C.S. was taken into custody in July 2017 when a wardship petition charged him with kidnapping to commit robbery, carjacking, robbery, attempted robbery, vandalism, and attempting to dissuade a victim from reporting a crime. C.S. denied the charges, claiming they were made in retaliation for his rebuffing the alleged victim, an adult male, who had solicited him for sex at the neighborhood laundromat. The charges were dismissed after a contested hearing. He was also charged with possessing a knife on school grounds (Pen. Code, § 626.10, subd. (a)), which was sustained. He was released on electronic monitoring, performed well, and in September 2017 he was downgraded to a community release program.

C.S.'s performance declined in October 2017 when he tested positive for marijuana and was detained for fighting and carrying an airsoft pistol. He then failed to meet with his probation officer as ordered and stopped attending school. A wardship petition was filed in San Mateo County charging C.S. with second degree robbery, making criminal threats, possessing marijuana for sale (all alleged to have occurred on November 24), receiving a stolen vehicle, and driving without a valid license (alleged to have occurred on November 14). C.S. was detained at a San Mateo County juvenile facility until March 2018, at which time he admitted the second degree robbery allegation (Pen. Code, § 212.5, subd. (c)) which involved robbing a 13-year-old boy of \$8 by threatening to use a purported knife. The remaining charges were dismissed after a negotiated plea, and the matter was transferred to Santa Clara County for disposition. While in San Mateo County custody, C.S. was receptive to services and excelled in a cognitive behavioral course.

In an April 2018 combined disposition, C.S. was adjudged a ward of the court, returned to the custody of his mother, placed on probation, and ordered to serve 45 days on electronic monitoring, attend school, adhere to a curfew, participate in counseling, complete a victim awareness program, not use alcohol or illegal drugs, and not possess dangerous or deadly weapons. According to the probation report, C.S. was assessed as

having bereavement and cannabis use disorders and was at moderate risk for recidivism. C.S.'s father died from lung cancer in February 2017. C.S. struggled to cope with that loss, and that struggle included daily marijuana use. C.S. told the probation officer he had carried the knife at school for protection, and his mother reported that C.S. had been struck in the head with a baseball bat and robbed before moving to San Jose when an internet sale/trade deal went bad. A Behavioral Health Services referral had been made to assess C.S. for appropriate community programs and services, including psychotherapy to address aggression and depression related to his father's death and the violent assault related by his mother. A referral to a mentorship program was also anticipated.

Almost immediately following his 2018 release on electronic monitoring, C.S. tested positive for marijuana. On May 1 he was suspended from school for smoking marijuana on campus, and later that day he cut off the monitor and absconded from home. The next day C.S. and his mother attended a multi-disciplinary team meeting at the probation office, and he was encouraged to make a fresh start with therapy, mentoring, and summer job referrals in place. But he violated the terms of his release on May 7, and a notice of probation violation alleged he had failed the electronic monitoring program, tested positive for marijuana, and had been suspended from school for smoking marijuana on campus. C.S. admitted the violations. He told the probation officer that he struggled with ADHD and making good decisions, found it difficult to stay in one place, and the marijuana helped with the ADHD. He was continued as a ward of the court, ordered to serve 10 days in juvenile hall, and ordered to attend a victim awareness workshop.

C.S. was arrested in June 2018 for possessing burglary tools, resisting a peace officer, loitering, and possessing marijuana as a minor. The matter was settled at intake, C.S. was released to his mother's custody, and continued on probation. C.S. had been

meeting with his psychotherapist regularly, referrals were in place for mentorship and activities programs, and C.S. was scheduled to attend the victim awareness workshop.

A third wardship petition was filed in September 2018 alleging vehicle theft (Veh. Code, § 10851, subd. (a); count 1), misdemeanor resisting or obstructing an officer (Pen. Code, § 148, subd. (a)(1); count 2), and firearm possession (Pen. Code, § 29820, subd. (b); count 3). C.S. admitted the offenses.

According to the probation officer's disposition report, C.S. stole a car and fled on foot when officers initiated a traffic stop. The next day officers conducted a probation search and found a stolen assault rifle and 9 mm ammunition in his bedroom. C.S. told the probation officer he had taken the rifle and ammunition a month earlier from an unlocked vehicle and kept them for protection from his former school peers who were involved in a gang, had jumped him, and had made threats against him and his family. His mother suspected he had a gun. She had heard rumors that C.S. stole a gun from someone who was now looking for him. She also related that C.S. had not left the house for a month because he was terrified someone might kill him.

C.S. was reassessed as having a high risk of recidivism. He "had failed to respond to interventions and take advantage of opportunities to remain in the community." The probation officer met with C.S. several times to redirect his behavior, but C.S. refused to attend the victim awareness workshop, follow up with mentoring and outreach services, attend school, and adhere to his mother's rules. He had also disengaged from his therapy sessions.

The probation officer recommended C.S. continue as a ward of the court and be ordered to participate in the county Juvenile Rehabilitation Facilities' Enhanced Ranch Program (the Ranch) in order to dissociate from negative associations and delinquent behavior, receive mental health and substance abuse counseling, and create positive relationships. The probation officer considered C.S.'s extensive history of failed

rehabilitation, the safety of the community, C.S.'s rehabilitative needs, and the escalation of his delinquent behavior.

At the October 2018 disposition hearing, C.S.'s attorney commented that the probation report was sensitive and thoughtful, and C.S. recognized he needed help. She expressed concern that C.S. had never been offered Wraparound services, and she asked the court to consider sending C.S. home with those services to avoid a Ranch commitment. The prosecutor was principally concerned with the assault rifle and ammunition found in C.S.'s bedroom. He agreed with the probation officer's recommendation, hoping to alter C.S.'s escalating behavior before he turned 18.

The juvenile court noted it had read and reviewed the report carefully. In adopting the probation officer's recommendation, it commented: "My huge concern here is not only the gun and the ammunition, but there's some reason to think that people might be out to get you. And if I simply send you home with Wrap services, that doesn't protect you, I don't think adequately, unfortunately. I am not going to suggest for a minute that perhaps we could have done more than we did thus far because I just don't know. But I do know that what we have attempted to do hasn't worked, and if it had worked, we wouldn't be here on [the new] petition."

C.S. was committed to the Ranch for six to eight months for "care, training, and treatment," and ordered to participate in all treatment programs prescribed by the facility. (The maximum term of confinement was seven years four months.) The court ordered that upon release C.S. be returned to his mother's custody and participate in Wraparound services arranged by the Probation Department. C.S. and his mother were ordered to pay \$268 in fines and penalty assessments within 30 days.

II. DISCUSSION

"The purpose of [juvenile court law] is to provide for the protection and safety of the public and each minor under the jurisdiction of the juvenile court ..., removing the minor from the custody of his or her parents only when necessary for his or her welfare

or for the safety and protection of the public.” (Welf. & Inst. Code, § 202, subd. (a).) Rehabilitation is a primary objective of the juvenile justice system. (*In re M.S.* (2009) 174 Cal.App.4th 1241, 1250.) To that end, the statutory scheme “contemplates a progressively more restrictive and punitive series of dispositions starting with home placement under supervision, and progressing to ... placement in a local treatment facility, and finally placement at the [California Department of Corrections and Rehabilitation’s Division of Juvenile Justice].” (*Ibid.*)

A juvenile court’s commitment order must be based on the relevant and material evidence before it, including “(1) the age of the minor, (2) the circumstances and gravity of the offense committed by the minor, and (3) the minor’s previous delinquent history.” (Welf. & Inst. Code, § 725.5.) The record must also demonstrate “both a probable benefit to the minor by a ... commitment and the inappropriateness or ineffectiveness of less restrictive alternatives.” (*In re Jonathan T.* (2008) 166 Cal.App.4th 474, 484–485.) We review a juvenile court’s commitment order for abuse of discretion. (*In re Nicole H.* (2016) 244 Cal.App.4th 1150, 1154.) The court abuses its discretion when the factual findings critical to its decision are not supported by the evidence. (*Ibid.*)

C.S. argues that the juvenile court abused its discretion in committing him to the Ranch based on an unsubstantiated claim that he was in danger. Although the six to eight-month commitment has been served, C.S. urges that his appeal is not moot because he could be provided with effective relief in the way of credit toward fines for any time erroneously spent in the juvenile detention facility. Penal Code section 2900.5, subdivision (a) provides, “all days of custody of the defendant ... shall be credited upon his or her term of imprisonment, or credited to any base fine that may be imposed, at the rate of not less than [\$125] per day.” Assuming the appeal is not moot if Penal Code section 2900.5 credits would result from an appellate disposition in C.S.’s favor (*People v. Gregerson* (2011) 202 Cal.App.4th 306, 321 [a case is moot “ ‘ “when a court ruling can have no practical effect or cannot provide the parties with effective relief” ’ ”]), the

appeal fails nonetheless because the disposition order is supported by evidence in the record.

The disposition report related a conversation with C.S.'s mother: "[Mother] indicated she suspected her son may be in possession of a gun. She previously overheard rumors her son stole a gun and the person he stole the gun from was looking for him. [C.S.] had not left their residence for approximately one month, as he is terrified someone is looking to 'kill him.' In addition, she has concerns with her son's marijuana use and she does not agree with the harmful choices he is making. [Mother] is petrified [C.S.'s] choices have placed his safety and the safety of his family in jeopardy. ... [¶] ... [Mother] agrees a commitment to the Ranch facility would be in [C.S.'s] best interest. She is hopeful the program can assist him in developing coping strategies to work through his emotional challenges and that he takes advantage of all services offered to him, in an effort to steer him away from being further entrenched in the Juvenile Justice System."

C.S. acknowledges his mother's statement that she believed he was in danger as a result of stealing the firearm and ammunition found in his possession. He argues the statement cannot support a finding that his safety was compromised because the statement "was never confirmed or dispelled." But C.S. did not object to the probation report at the disposition hearing or request that his mother, who was present, clarify or elaborate on her statement. He has therefore forfeited any claim that her statement cannot be considered as a basis for placing him in the Ranch program. (See *People v. Doolin* (2009) 45 Cal.4th 390, 434 [failure to object to the admission of evidence results in forfeiture of appellate review].) C.S. counters that an objection would have been futile because the court "was resolute in its decision to commit him to the Ranch." But the futility inquiry here is not whether an objection would have changed the court's disposition, but whether any effort to make an accurate record would have been futile.

Contrary to C.S.'s futility argument on appeal, his counsel in the juvenile court had ample opportunity to speak before the court made its disposition order.

The court's expressed concern for C.S.'s safety was supported not only by his mother's stated belief that she thought someone wanted to kill him, but by her observation that C.S. was afraid to leave the house, and by his own assertion that he needed a gun for protection. His mother's safety concerns also establish that a less restrictive home placement would be inappropriate since she expressed fear not only for C.S. but for her entire family.

Finally, C.S. does not dispute the likely benefit of a Ranch commitment. C.S. was nearing adulthood, and his criminal conduct was serious and escalating. He failed early intervention, community release, and electronic monitoring programs. He declined outreach services and refused to attend school. The Ranch offered needed rehabilitative and therapeutic services in a structured environment.

III. DISPOSITION

The disposition order is affirmed.

Grover, J.

WE CONCUR:

Greenwood, P. J.

Danner, J.